

REMARKS

Claims 1-51 and 55-74 are pending. Claims 8, 15, 22, 41, and 45 are amended by way of this Amendment to clarify the subject matter of the invention. No new matter is believed to be added.

Election/Restrictions

Applicant hereby elect Species I (claims 1-7, 57-66, 73 and 74).

Claims 8-31 and 41-48

Independent claims 8, 15, 22, 41, and 45 are amended to delete "user-adjustable" which modified "performance characteristic." In addition, these claims are also amended to clarify that the performance characteristic can be repeatedly measured and stored during use of the headset. Support can be found, for example, at page 18, lines 14-21. (E.g., "These performance characteristics may be retrieved, re-measured and updated at any time after production of the headset.") Thus, no new matter is believed to be added by way of these amendments.

Applicant believes that claims 8-31 and 41-48 belong in Species II as these claims generally recite a headset with memory to stored performance characteristics of the headphone.

CONCLUSION

Applicants believe that all pending claims belonging in Species I are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

In the unlikely event that the transmittal letter accompanying this document is separated from this document and the Patent Office determines that an Extension of Time under 37 CFR 1.136 and/or any other relief is required, Applicant hereby petitions for any required relief including Extensions of Time and/or any other relief and authorizes the Commissioner to charge

the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 50-2315 (Order No. 01-3569).

Respectfully submitted,



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